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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/690,667

Applicant(s)

MACWILLIAMS, STEVEN

Examiner

Eric A. Gates

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 34-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-25, and 34-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. Applicant's request filed on 19 February 2008 for suspension of action in this application under 37 CFR 1.103(a) is denied for not showing good and sufficient cause. Applicant has requested a 6 month suspension in order to conduct an in person interview. However, the Applicant had available a 6 month response time to the office action mailed 18 September 2007, and no request for interview was received during that time. As the Examiner does not work at an off site location, setting up a personal interview would not have required a serious burden to either the Applicant or the Examiner. Failure by the Applicant to set up a personal or telephone interview cannot be deemed an appropriate reason for a suspension of action. See MPEP § 709.

Claim Objections

2. Claim 1 is objected to because of the following informalities: the phrase "the gap comprising section of spanned by only one of said layers" should be replace with the phrase "the gap comprising a section spanned by only one of said layers".
3. Claim 4 is objected to because of the following informalities: the phrase "thereby providing visually discernability said fold-line" should be replace with the phrase "thereby providing visual discernability of said fold-line".
4. Claim 37 is objected to because of the following informalities: the phrase "over said edge the label" should be replaced with "over said edge of the label".
5. Claim 38 is objected to because of the following informalities:

- a. The phrase "at least a pair of portions" should be replaced with "at least three portions".
 - b. The semicolon should be removed after the phrase "over an edge of the stock member".
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase "so that the gap is visually discernable because the gap is necessarily more translucent than adjacent portions" pertains to subject matter that was not originally disclosed in the specification at the time the application was filed.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. The term "more translucent" in claim 1 and is a relative term which renders the claim indefinite. The term "more translucent" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Furthermore, claim 1 does not require any of the layers to be translucent, only non-transparent.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 35 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner (U.S. Patent 4,201,403).
13. Regarding claim 35, Turner discloses a method of constructing a label 110 which is easily alignable and predictably foldable along a fold-line 119, the method comprising the steps of: providing a label 110 having a first non transparent layer 112 having a top surface 114 adapted to being printable; applying an adhesive 118 configured to form an axial channel, such that it defines a visually discernible gap (as seen in figure 9);

wherein the combination of first layer and adhesive has different light transmission properties than the first layer alone (it is inherent that the combination of adhesive and the first layer would have a lower light transmission property than the first layer alone since the combination is thicker), thereby creating a visually discernible gap at the channel; wherein the axial channel is of sufficient width to create a single fold line when a folding force is applied to the label.

14. Regarding claim 36, Turner discloses a method of constructing a label 110 which is easily alignable and predictably foldable along a fold-line 119, the method comprising the steps of: providing a label 110 having a first layer 112 having a top surface 114 adapted to being printable; applying an adhesive 118 configured to form an axial channel, such that it defines a visually discernible gap (as seen in figure 9); wherein the combination of first layer and adhesive has different light transmission properties than the first layer alone (it is inherent that the combination of adhesive and the first layer would have a lower light transmission property than the first layer alone since the combination is thicker), thereby creating a visually discernible gap at the channel.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 11, 13-17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144).

17. Regarding claim 11, the modified invention of Cunningham discloses a label 10 foldable along a fold-line (gap between 13 and 14, see figure 2) comprising: a substantially planar first layer 12 of predetermined light transmissibility (transparent); and a second layer 13/14 of a second predetermined light transmissibility (cardboard) attached to the first layer and having at least two sections at least partially separated by a gap (as seen in figure 2), the gap being visually discernible through the first layer as a result of differential transmissibilities of the different portions of the label; wherein the label fold line can be reliably discerned at said folds along the discernible gap as a consequence of lesser light transmissibility thicker portions on either side of the gap (due to layers 13 and 14) such that the at least two sections are mountable on different surfaces of the stock member when the label is applied over an edge of the stock member (as seen in figure 2).

Cunningham does not disclose the second layer having an adhesive on an outer surface for applying the label to a stock member having at least two surfaces. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have applied an adhesive surface as found on the first layer to the exposed surface of the second layer pairs for the purpose of creating an adhesive bond between the second layer pairs when folded, thereby creating a stronger folded label, because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

18. Regarding claim 13, the modified invention of Cunningham discloses wherein the second layer comprises a darker material than the first layer.

19. Regarding claim 14, the modified invention of Cunningham discloses the invention substantially as claimed, except Cunningham does not disclose wherein the second layer comprises a security label material. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate any desirable material into the label for the purpose of using it as a security label, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Therefore, it would have been obvious to construct the second layer with any desired material, since applicant has not disclosed the criticality of using a particular material.

20. Regarding claim 15, the modified invention of Cunningham discloses wherein the gap indicates a label fold-line for matching with the edge of the stock member (as seen in figure 2).

21. Regarding claim 16, the modified invention of Cunningham discloses wherein the gap defines a fold-line section in the first layer (as seen in figure 2).

22. Regarding claim 17, the modified invention of Cunningham discloses wherein the first layer folds along the fold-line section when a folding force is applied to the label.

23. Regarding claim 19, the modified invention of Cunningham discloses wherein the gap comprises a section of complete separation between each of the two or more second layer sections.

24. Claims 1, 2, 5, 8-10, 22, 23, 25, 34, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144) in view of Rodighiero (U.S. Patent 5,340,629).

25. Regarding claim 1, Cunningham discloses a label 10 for attaching over an edge of a stock member (not labeled, see figure 1) to insure reliably folding along a fold-line (gap between 13 and 14, see figure 2) over said edge the label comprising: a substantially planar (planar being defined as "lying in one plane" by Webster's Online Dictionary) foldable first layer 12 having a first surface (side not visible in figure 2) adapted to being printed on (it is inherent that strip 11, which is identified as a well known transparent sheet material, such as "Scotch" tape, is adapted to being printed on) and a second surface (side visible in figure 2) on the back side of said first surface; and a pair of second layers 13/14 of predetermined widths (as seen in figure 2), each including a material which is permanently attached to the second surface of the first layer (using the adhesive material of the "Scotch" tape), the second surface having an adhesive on an outer surface of the label material, the second layer pairs being spaced apart to define a narrow gap therebetween (as seen in figure 2, also see column 2, lines 12-20), said gap defining a fold-line section in the first layer which bridges said gap (the fold-line section is the portion of layer 12 that is between layers 13 and 14 and that forms the gap), said gap being narrower than either of said second layer pairs to define a predictable fold line (see figures 2 and 5 and column 3, lines 33-36), said second layers being non-transparent (being formed of non-transparent paper stock material)

and limiting the light transmission therethrough, the gap comprising section spanned by only one of said layers (layer 12), so that the gap is visually discernable because the gap is necessarily more translucent than adjacent portions (due to the different light transmissiveness between layer 12 and layers 13/14).

Cunningham does not disclose said first layer being non-transparent and limiting the light transmission therethrough. Rodighiero teaches the use of an adhesive tape 10 that is translucent for the purpose of allowing a user to be able to see through it to detect the leading edges of the tape. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the translucency of Rodighiero in order to have a first layer that has an alternative amount of light transmissiveness to a transparent layer, thereby allowing for a softer view of the second layer and the printing thereon.

26. Regarding claim 2, the modified invention of Cunningham discloses the invention substantially as claimed, except Cunningham does not disclose wherein the second layer pairs is formed by a pigment applied to one face of said first layer. However, Cunningham does disclose that the second layer may be coated to provide a desired color background for the imprinted indicia, and therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have placed the color pigment on the adjacent surface of the first layer instead of the second layer, since it has been held that rearranging parts of an invention involves only routine skill in the art.

27. Regarding claim 5, the modified invention of Cunningham discloses wherein the gap comprises a discontinuity in the second layer (between sections 13 and 14).

28. Regarding claim 8, the modified invention of Cunningham discloses wherein the combination of first and second layers have a greater stiffness than either layer individually (it is inherent that any two layers added together will have a greater stiffness than each individual layer) and the label has an automatic tendency to fold along said gap (it is inherent that the label will fold along the gap between the card stock layers, as the gap with the tape layer alone is less stiff than the tape layer and card stock layer together).

29. Regarding claim 9, the modified invention of Cunningham discloses wherein the second layer comprises a material (may be cardboard, see column 2, lines 35-37) which is darker than the material of the first layer (which is transparent).

30. Regarding claim 10, the modified invention of Cunningham discloses wherein the gap is visually discernible through the first layer.

31. Regarding claim 22, Cunningham discloses a label 10 comprising: a first layer 12 of predefined light transmissibility (transparent), having a top surface (underside of figure 2) adapted to being printed on (it is inherent that strip 11, which is identified as a well known transparent sheet material, such as "Scotch" tape, is adapted to being printed on) and a bottom surface; and a second non transparent layer 13/14 of a second predefined light transmissibility (cardboard) attached to the bottom surface of the first layer, the second layer comprising two or more sections, wherein between each of the two or more sections is a gap (see figure 2), each gap defining a visually discernible

fold-line section in the first layer as a result of the differential light transmissibility at said gap, the second layer comprising a darker material than the first layer, wherein each gap is discernible through the first layer and indicates the fold-line section of the first layer, the first layer folds along the fold-line section when a folding force is applied to the label (see figure 1).

Cunningham does not disclose said first layer being non-transparent. Rodighiero teaches the use of an adhesive tape 10 that is translucent for the purpose of allowing a user to be able to see through it to detect the leading edges of the tape. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the translucency of Rodighiero in order to have a first layer that has an alternative amount of light transmissiveness to a transparent layer, thereby allowing for a softer view of the second layer and the printing thereon.

32. Regarding claim 23, the modified invention of Cunningham discloses the invention substantially as claimed, except Cunningham does not disclose wherein the second layer comprises a security label material. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate any desirable material into the label for the purpose of using it as a security label, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Therefore, it would have been obvious to construct the second layer with any

desired material, since applicant has not disclosed the criticality of using a particular material.

33. Regarding claim 25, the modified invention of Cunningham discloses the gap comprises a section of separation between each of the two or more second layer sections (between sections 13 and 14).

34. Regarding claim 34, Cunningham discloses a label 10 comprising: a substantially planar first layer 12 of first predetermined light transmissibility (transparent); and a second non transparent layer 13/14 of second predetermined light transmissibility (cardboard), permanently attached to the first layer (through adhesive on the first layer), the second layer including a first section 13 and a second section 14 at least partially separated by a gap (as seen in figure 2) which is visually discernible through the first layer, as a result of different light transmissibility at the gap, wherein the label folds along the visually discernible gap such that a user folding the label can predict where the label will fold by perceiving the visually discernible gap through the first layer.

Cunningham does not disclose said first layer being non-transparent. Rodighiero teaches the use of an adhesive tape 10 that is translucent for the purpose of allowing a user to be able to see through it to detect the leading edges of the tape. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the translucency of Rodighiero in order to have a first layer that has an alternative amount of light transmissiveness to a transparent layer, thereby allowing for a softer view of the second layer and the printing thereon.

Cunningham does not disclose the second layer having an adhesive on an outer surface of the second layer. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have applied an adhesive surface as found on the first layer to the exposed surface of the second layer pairs for the purpose of creating an adhesive bond between the second layer pairs when folded, thereby creating a stronger folded label, because it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

35. Regarding claim 37, Cunningham discloses a label 10 for attaching over an edge of a stock member (not labeled, see figure 1) to insure reliably folding along a fold-line (gap between 13 and 14, see figure 2) over said edge, the label comprising: a substantially planar foldable first layer 12 (transparent) having a first surface (side not visible in figure 2) adapted to being printed on (it is inherent that strip 11, which is identified as a well known transparent sheet material, such as "Scotch" tape, is adapted to being printed on) and a second surface on the back side of said first surface; and a pair of second non transparent layers 13/14 of predetermined widths, each including material which is permanently attached to the second surface of the first layer (by the adhesive on the tape), the second surface having an adhesive on an outer surface of the label material, the second layer pairs being spaced part to define a gap therebetween (as seen in figure 2), and areas having said second layer pairs being of lesser translucency (the areas where layers 13/14 are placed would inherently have lesser translucency than the tape layer 12) , thereby defining a visually perceptible fold-line section in the first layer, wherein when a folding pressure is applied to the label, the

label folds along the fold-line section such that the first section of the second layer is attachable to a first side of the stock member and the second section of the second layer is attachable to a second side of the stock member (as seen in figure 2).

Cunningham does not disclose said first layer being non-transparent or said gap being at least partly translucent. Rodighiero teaches the use of an adhesive tape 10 that is translucent for the purpose of allowing a user to be able to see through it to detect the leading edges of the tape. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the translucency of Rodighiero in order to have a first layer that has an alternative amount of light transmissiveness to a transparent layer, thereby allowing for a softer view of the second layer and the printing thereon.

36. Claims 3, 6, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144) in view of Rodighiero and further in view of Cunningham (U.S. Patent 3,348,324).

37. Regarding claims 3 and 24, the modified invention of Cunningham '144 discloses the invention substantially as claimed, except Cunningham does not disclose wherein the gap comprises a series of perforations. Cunningham '324 teaches the use of perforations 36/37/38 on a label blank 21 that are used for the purpose of defining a fold line. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham '144 with the

perforations of Cunningham '324 in order to have a label that is easier to fold due to the line of weakness.

38. Regarding claim 6, the modified invention of Cunningham '144 discloses the invention substantially as claimed, except Cunningham does not disclose wherein the fold-line section is offset from a centerline of the first layer. Cunningham '324 teaches the use of a fold-line 53 that is offset from the centerline of the first layer 47 for the purpose of having text exposed only on one side of the file folder 58. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham '144 with the offset fold-line of Cunningham '324 in order to have a label that only requires text on one side.

39. Claims 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144) in view of Cunningham (U.S. Patent 3,348,324).

40. Regarding claim 18, the modified invention of Cunningham '144 discloses the invention substantially as claimed, except Cunningham does not disclose wherein the gap comprises a series of perforations. Cunningham '324 teaches the use of perforations 36/37/38 on a label blank 21 that are used for the purpose of defining a fold line. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham '144 with the perforations of Cunningham '324 in order to have a label that is easier to fold due to the line of weakness.

41. Regarding claim 20, the modified invention of Cunningham '144 discloses the invention substantially as claimed, except Cunningham does not disclose wherein the fold-line section is offset from a centerline of the first layer. Cunningham '324 teaches the use of a fold-line 53 that is offset from the centerline of the first layer 47 for the purpose of having text exposed only on one side of the file folder 58. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham '144 with the offset fold-line of Cunningham '324 in order to have a label that only requires text on one side.

42. Claims 7 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144) in view of Rodighiero and further in view of Schneider (U.S. Patent 5,513,459).

43. Regarding claim 7, the modified invention of Cunningham discloses the invention substantially as claimed, except Cunningham does not disclose wherein the second layer has at least two gaps, or wherein the label is foldable upon a three dimensional tab member. Schneider teaches the use of a label (as seen in figure 2) that has two fold lines for the purpose of being foldable upon a three dimensional tab member 16. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the double fold-line of Schneider in order to have a label that has two visible gaps for folding onto a three dimensional tab member.

44. Regarding claims 38 and 39, the modified invention of Cunningham as identified in the rejection of claims 1 and 7 above discloses the invention as claimed.

45. Regarding claim 40, the modified invention of Cunningham discloses the step of printing indicia on the labels before removing them from the planar sheet (see figure 2) and folding them into 3-dimensional labels (as modified by Schneider).

46. Claims 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham (U.S. Patent 2,893,144) in view of Schneider (U.S. Patent 5,513,459).

47. Regarding claim 21, the modified invention of Cunningham discloses the invention substantially as claimed, except Cunningham does not disclose wherein the second layer has at least two gaps, or wherein each gap is visible through the first layer. Schneider teaches the use of a label (as seen in figure 2) that has two fold lines for the purpose of being foldable upon a three dimensional tab member 16. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the label of Cunningham with the double fold-line of Schneider in order to have a label that has two visible gaps for folding onto a three dimensional tab member.

Allowable Subject Matter

48. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

49. Claim 12 is allowed. Claim 12 is the independent claim.

50. The following is an examiner's statement of reasons for allowance:

The closest prior art of record is U.S. Patent 2,893,144 to Cunningham, which was applied to the claims in the office action mailed 18 September 2007. Suffice it to say, the patent to Cunningham does not disclose "wherein the second layer comprises a visually greater light transmissibility material than the first layer" as claimed in independent claim 12, and as such does not anticipate the instant invention as disclosed in independent claim 12.

Furthermore, there is no combinable teaching in the prior art of record that would reasonably motivate one having ordinary skill in the art to so modify the teachings of Cunningham, and thus, for at least the foregoing reasoning, the prior art of record does not render obvious the present invention as set forth in independent claim 12.

Response to Arguments

51. Applicant's arguments filed 19 February 2008 have been fully considered but they are not persuasive.

52. Applicant's argument that the surface of layer 12 on which the filler strips 29 and 30 (actually 13 and 14 in the rejection) are placed on must be the top surface is not persuasive, as the Examiner has defined the top surface of layer 12 as being the underside surface as seen in figure 2. There is no limitation in the claims that prevents the label of Cunningham from being turned over to provide the required orientation.

53. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., the capability of the labels to be fed into a printer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

54. Applicant's argument that the first layer (12) in claim 1 being planar and bridging the gap is not shown in Cunningham is not persuasive. Layer 12 is formed by the common strip 11, which is planar and is of one piece across the length of the label (see column 2, lines 5-12).

55. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., adhesive on an outer surface of the second layer in claim 2, or the gap aiding in finding and creating the predictable fold line, or the adhesive having a differential light transmission characteristic) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

56. Applicant's argument that Cunningham only teaches transparent material in both the first and second layers is not persuasive (see column 2, lines 35-37, which is used in the rejection of the claims above).

57. Applicant's argument that "Cunningham teaches that one can feel the gap, but not see it" is not persuasive, because it is inherent that one could see the gap between layers 13 and 14, as it can be seen in figure 2.

58. Applicant's arguments regarding claims 11, 13, and 22 fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

59. Applicant's remaining arguments are moot in view of the new grounds of rejection.

60. For the reasons as set forth above, the rejections are maintained.

Conclusion

61. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is (571)272-5498. The examiner can normally be reached on Mon-Thurs 8:45 - 6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3722
10 April 2008

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